

Rule Summary and Fiscal Analysis (Part A)**Department of Aging**

Agency Name

Division

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173-43-04

Rule Number

NEW

TYPE of rule filing

Rule Title/Tag Line

Time frames.**RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **Yes**

Bill Number: **HB66**General Assembly: **126**Sponsor: **Calvert**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **119.03**

4. Statute(s) authorizing agency to adopt the rule: **173.02, 173.42**

5. Statute(s) the rule, as filed, amplifies or implements: **173.42**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

In response to Am. Sub. H. B. No. 66 (126th G. A.), this proposed new rule is being filed to establish the time frames during which a PAA shall provide a long-term care consultation ("consultation").

The universal pre-admission review (UPAR) service began in 1995 as a way to inform individuals about alternatives to institutionalization known as home and community-based services (HCBS). The most popular HCBS program is known as the "Pre-Admission Screening System Providing Options and Resources Today"

("PASSPORT"). UPAR has sometimes been called an "assessment" service (the term formerly used by the Ohio Revised Code), a "universal pre-admission screening" service, and "Care Choice Ohio."

UPAR has been regulated by rule 5101:3-3-14 of the Administrative Code. Although that rule was adopted by ODJFS, it was ODA that has been performing the UPAR service (through the PASSPORT administrative agencies (PAAs) that it designated) in accordance with an inter-agency agreement between ODJFS and ODA.

Effective September, 29, 2005, the Ohio General Assembly, through Am. Sub. H. B. No. 66, replaced the term "assessment" with "long-term care consultation," amended the language regarding the service, and renumbered sections 5101.75 and 5101.752 of the Revised Code as sections 173.42 and 173.43 of the Revised Code, thereby transferring the authority to adopt rules from the director of ODJFS to the director of ODA.

Beginning in the fall of 2005, ODA began the process of drafting this proposed new rule and discussing the rule language with interested parties.

In January, 2007, ODA posted a draft of this proposed rule on the ODA web site for a two-week public comment period. After considering the comments filed during that period, ODA revised the proposed rule. Then, it posted that revision on the ODA web site for a second two-week public comment period in February, 2007.

On February 21, 2007, as part of the second public comment period, ODA met with various stakeholders to facilitate more input on the drafting of this proposed new rule. These stakeholders included the American Association of Retired Persons (AARP), the Association of Association of Philanthropic Homes and Housing for the Aging (AOPHA), the Central Ohio Area Agency on Aging (COAAA), the Ohio Academy of Nursing Homes (OANH), the Ohio Association of Area Agencies on Aging (OAAAA), the Ohio Association of Regional Long-Term Care Ombudsmen (OARLTCO), the Ohio Department of Job and Family Services (ODJFS), the Ohio Health Care Association (OHCA), and the State Long-Term Care Ombudsman (SLTCO).

After considering the input received from the second public comment period, ODA revised the draft of this proposed new rule. Then, on March 8, 2007, ODA distributed an electronic version of a draft of this rule to the stakeholders who attended the stakeholders' meeting in February and asked for further comments by March 13, 2007. Because no comments were received in response to that opportunity for feedback, minus one question that sought clarification on the language of this proposed new rule, ODA is now proceeding with the filing of this proposed new rule.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; if the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

This proposed new rule establishes the time frames during which a PAA shall provide a long-term care consultation after an individual applies for Medicaid coverage and after the PAA receives a request for a consultation.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

This response left blank because filer specified online that the rule does not incorporate a text or other material by reference.

10. If the rule is being **rescinded** and incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

Not Applicable.

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

Not Applicable.

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

FISCAL ANALYSIS

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

\$0.00

ODA does not anticipate an increase or decrease in expenditures appropriated through this line-item as a result of this proposed new rule.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

GRF-490-403 PASSPORT

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

COST TO AN INDIVIDUAL WHO RECEIVES A CONSULTATION: No matter who the individual is that receives the consultation, the consultation will be offered at no cost to the individual. Additionally, ODA estimates that there will be no cost to an individual in regard to the time frames established by this proposed new rule.

ESTIMATED COST TO A NURSING FACILITY (NF): ODA estimates that there will be no cost to a NF in regard to the time frames established by this proposed new rule.

ESTIMATED COST TO A PASSPORT ADMINISTRATIVE AGENCY (PAA): The Central Ohio Area Agency on Aging, a PAA for the geographic region of Central Ohio, estimates that it generally takes from thirty to ninety minutes to provide a UPAR, depending upon the depth of information that the individual requests of the PAA during the screening. Because ODA estimates that a consultation detailed in this proposed new rule will take no longer to perform than a UPAR, ODA estimates that there will be no increased cost of compliance in

association with the length of time required to perform the long-term care consultation in comparison to a UPAR.

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At a stakeholders' meeting, the Central Ohio Area Agency on Aging informed ODA that they are currently providing each UPAR within a five-day time frame, so it is expected that a PAA should also be capable of performing a long-term care consultations within the five-day time frame that this proposed new rule would require. Additionally, if a PAA becomes unable to provide a consultation within five days, it can provide a consultation as soon as practicable or not at all. Therefore, a PAA is not required to hire extra staff to meet the time frame established in this rule when a temporary surge in individuals who requires a consultation is presented to the PAA. Additionally, if an individual requests to have a consultation provided at a later date, the PAA is not required to provide the consultation within five days. Instead, a mutually agreed-upon date can be established between the PAA and the individual.

ESTIMATED BENEFIT TO A PASSPORT ADMINISTRATIVE AGENCY (PAA): Due to the increased number of exemptions in comparison to the UPAR service, a PAA may not need to provide as many of the consultations as it had to provide UPARs, thereby reducing its operational costs.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**